

REMARKS

Favorable reconsideration of the application is respectfully requested in light of the amendments and remarks herein.

Upon entry of this amendment, claims 1-21, 23-57 and 59-62 pending. As shown above, claims 1, 18, 20, 23, 34, 42, 50, 59, 60 and 61 have been amended, and claims 22 and 58 have been canceled. No new matter has been added.

Claim Objections of Claim 23 and 42

In Section 2 of the Office Action, claims 23 and 42 stand objected to for informalities.

These claims have been amended to correct the informalities.

Accordingly, it is submitted that the Examiner's objections of Claims 23 and 42 has been obviated and withdrawal thereof is respectfully requested.

Double Patenting Rejections of Claims 1 – 19

In Section 4 of the Office Action, the Examiner has provisionally rejected claims 1 – 19 under the judicially created doctrine of nonstatutory type double patenting over claims 1 –13 of co-pending Application No. 10/783,284. This provisional rejection is respectfully traversed below.

A nonstatutory double-patenting rejection serves the purpose of preventing prolongation of the patent term by prohibiting claims in a second patent or application not patentably distinguishable from claims in the first patent or application. MPEP § 804.

In this case, the provisional nonstatutory double patenting rejection appears improper because the filing date of the present application is earlier than the filing date of the co-pending Application No. 10/783,284. Therefore, any patent that would be granted on the present application could not have a patent term extending beyond that of any patent that would be granted on the co-pending application, based on their respective filing dates.

Thus, a terminal disclaimer does not appear to be needed in the present case. Accordingly, Applicant requests that the double patenting rejection be withdrawn.

Double Patenting Rejections of Claims 60 – 62

In Section 5 of the Office Action, claims 60-62 stand provisionally rejected under the judicially created doctrine of nonstatutory double patenting over claim 29 of co-pending Application No. 10/783,284.

Applicant assumes the Examiner meant to make the double patenting rejection over claim 1 instead of claim 29, because his accompanying claim chart and explanation discuss claim 1. Further, co-pending Application No. 10/783,284 does not contain a claim 29.

A nonstatutory double-patenting rejection serves the purpose of preventing prolongation of the patent term by prohibiting claims in a second patent or application not patentably distinguishable from claims in the first patent or application. MPEP § 804.

In this case, the provisional nonstatutory double patenting rejection appears improper because the filing date of the present application is earlier than the filing date of the co-pending Application No. 10/783,284. Therefore, any patent that would be granted on the present application could not have a patent term extending beyond that of any patent that would be granted on the co-pending application, based on their respective filing dates.

Thus, a terminal disclaimer does not appear to be needed in the present case.

Accordingly, Applicant requests that the double patenting rejection be withdrawn.

§103 Rejection of Claims 1 – 9, 17 – 22, 25 – 41 and 43 – 62

In Section 8 of the Office Action, the Examiner has rejected claims 1 – 9, 17 – 22, 25 – 41 and 43 – 62 under 35 U.S.C. §103(a) as being unpatentable over Novak (Publication No. US 2002/0104099A1; hereinafter referred to as “Novak”) in view of Ellis et al. (U.S. Patent 6,774,926 B1; hereinafter referred to as “Ellis”). This rejection is respectfully traversed below.

In the Background section of the Specification, it is stated, “[s]haring pictures and video among people is often a popular form of entertainment. With the growing popularity of the Internet, sending images across the Internet has also become more popular. Recently, mobile devices such as cellular phones and PDA’s (Personal Digital Assistants) include media capture devices such as cameras and microphones. In addition, some devices have network capability. Accordingly, it is desirable to provide users of these mobile devices with a convenient and enjoyable environment for sharing images and audio across networks.” *Background of the Specification, Page 2, lines 13-20 (emphasis added).*

To achieve the above-stated objective, embodiments of the present invention provide a method, system for providing network media channels including media files. In one implementation a publishing client may capture media data into a media file and store the file onto the publishing client, then edit and publish the media file to a network media channel using a server. Afterwards, a notification of an update to a network media channel is created and requested by a subscribing client or portable media browsing device. The subscribing client

subscribes to one or more network media channels through the server and receives media files corresponding to updated subscribed network media channels. In this manner the invention achieves the recited aim of providing mobile device users with a convenient and enjoyable way of sharing images and audio across networks.

In particular, the method of providing a network media channel, as recited in claim 1, includes:

Regarding claim 1, as shown above, claim 1 has been amended and calls for:

1. A method of providing a network media channel, comprising:

capturing media data using a media capture device, wherein said media capture device is connected to a network and includes local storage and a media editing component;

storing said captured media data in a media file in said local storage of said media capture device;

modifying said media file using said media editing component of said media capture device;

publishing said modified media file to a server on said network to correspond to a network media channel, such that said published media file is accessible through said network; and

creating a notification of an update to said network media channel based on said publication of said media file;

wherein said notification is requested from said server through said network by a portable media browsing device subscribing to said network media channel.

(emphasis added)

Accordingly, in one aspect of claim 1, a notification of an update of a network media channel is created by said server based on said publication of said media file. *Specification, page 18, lines 10-18.* Notification of said update is requested from said server through said network by a portable media browsing device already subscribing to the network media channel.

Specification, page 18, lines 19-20. This method of capturing, storing, modifying, and publishing a media file, followed by creating a notification of an update to a media file, wherein a portable media browsing device requests said notification, allows mobile device users to conveniently send and receive media files. This method accomplishes the stated aim of providing mobile device users with a convenient and enjoyable way of sharing images and audio across networks.

Novak in combination with Ellis are cited in the Office Action as rendering obvious claim 1. *Feb. 23, 2005 Office Action (hereinafter "Office Action"), section 8, page 4).* Novak, however, fails to teach or suggest providing a method of creating a notification of an update to said network media channel based on said publication of said media file; wherein said notification is requested from said server through said network by a portable media browsing device subscribing to said network media channel (emphasis added). Paragraph [0070] of Novak might at first appear to relate to a notification of an updated network media channel as cited in the Office Action. *See Office Action, section 8, page 8.* This paragraph, however, must be read closely. Paragraph [0070] discusses publishing a broadcast schedule of media objects or media programs uploaded by an upload source 122 to potential end users. *Novak, [0070].* Even if publishing this information could be viewed as "creating a notification," as claimed, Novak does not go on to teach or disclose that notification is requested from said server through said network by a portable media browsing device subscribing to said network media channel. Simply put, paragraph [0070] does not appear to address requesting a notification at all. Nor does it discuss a portable media browsing device. By extension, it fails to describe such a device "subscribing to said network media channel" or

“requesting said notification.” Therefore, Novak does not teach “creating notification of an update of said network media channel . . . wherein said notification is requested . . . by a portable media browsing device subscribing to said network media channel,” as claimed, to meet the invention’s objective of providing mobile device users with a convenient and enjoyable way of sharing images and audio across networks. For this reason, the method of Novak does not disclose or teach claim 1. Ellis merely teaches modifying said media file using said media editing component of said media capture device. *Office Action, section 8, page 6.* Therefore, it is maintained that Novak and Ellis, individually or in combination fail to teach or suggest all the limitations of claim 1.

Based on the foregoing discussion, claim 1 should be allowable over Novak and Ellis. Claims 60 closely parallels claim 1, and recites substantially similar limitations as recited in independent claim 1. Therefore claim 60 should also be allowable over Novak and Ellis. Since claims 2-19 and 61-62 depend from one of independent claims 1 and 60, claims 2-19 and 61-62 should also be allowable over Novak and Ellis.

Regarding independent claim 20, claim 20 has been amended and calls for:

20. A method of providing a network media channel, comprising:

subscribing to a network media channel with a server through a network;

requesting a notification of an update to said network media channel from said server through said network,

wherein said notification is requested by a portable media browsing device subscribing to said network media channel;

receiving said notification of said update to said network media channel from said server through said network; and

receiving a media file corresponding to said update of said network media channel at said portable media browsing device from said server through said network.

(emphasis added)

Claim 20 thus includes substantially the same limitation “wherein said notification is requested from said server through said network by a portable media browsing device subscribing to said network media channel,” as is present in claim 1. As discussed with regards to claim 1, Novak does not appear to disclose or teach this limitation. Ellis is merely cited as teaching modifying said media file using said media editing component of said media capture device with regard to claim 20. *Office Action, section 8, pages 6-8*. Thus, it is maintained that Novak and Ellis individually or in combination fail to teach or suggest all the limitations of claim 20.

As amended, claims 34 and 50 have been amended and closely parallel claim 20, and recite substantially similar limitations as claim 20, including requesting said notification by a portable media browsing device subscribing to said network media channel. Therefore, claims 34 and 50 should also be allowable over Novak and Ellis. Since claims 21-22, 25-33, 35-41, 43-49 and 51-59 depend from one of independent claims 20, 34 and 50, claims 21-22, 25-33, 35-41, 43-49 and 51-59 should also be allowable over Novak and Ellis.

Accordingly, it is submitted that the Examiner’s rejection of claims 1-19, 17-22, 25-41 and 43-62 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

§103 Rejection of Claims 10 – 16, and 24

In Section 9 of the Office Action, the Examiner has rejected claims 10 – 16, and 24 under 35 U.S.C. §103(a) as being unpatentable over Novak in view of Ellis and further in view of

Toyama et al. (Publication No. US 2004/0070678 A1; hereinafter referred to as “Toyama”). This rejection is respectfully traversed below.

Based on the foregoing discussion regarding claims 1 and 20, and since claims 10-16 and 24 depend from one of claims 1 and 20, claims 10-16 and 24 should also be allowable over Novak and Ellis. The Office Action merely cites section [0022] of Toyama for teaching additional limitations present in claims 10-16 and 24, that are not present in claims 1 and 20. *Office Action, section 9, pages 14-16.* Therefore, even if one were to combine Novak with Ellis and Toyama, the combination would not include all the limitations of claims 1 and 20, from which claims 10-16 and 24 depend. Thus, Novak, Ellis and Toyama, individually or in combination, fail to teach or suggest all the limitations of dependent claims 10-16 and 24.

Accordingly, it is submitted that the rejection of claims 10-16 and 24 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

§103 Rejection of Claims 23 and 42

In Section 10 of the Office Action, the Examiner has rejected claims 23 and 42 under 35 U.S.C. §103(a) as being unpatentable over Novak in view of Ellis and further in view of “RDF Site Summary (RSS) 1.0” (2000 – 12 – 06; hereinafter referred to as “RDF”). This rejection is respectfully traversed below.

Based on the foregoing discussion regarding independent claims 20 and 34, and since claims 23 and 42 depend from one of claims 20 and 34, claims 23 and 42 should also be allowable over Novak and Ellis. The Office Action merely cites RDF for teaching accessing an RSS page for said network media channel. *Office Action, section 10, page 16.* Thus, Novak,

Ellis and RDF, individually or in combination, fail to teach or suggest all the limitations of claim 23 and 42. Therefore, claims 23-42 should be allowable over Novak, Ellis and RDF.

Accordingly, it is submitted that the rejection of claims 23 and 42 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

CONCLUSION

In view of the foregoing, entry of this amendment, and the allowance of this application with claims 1-21, 23-57 and 59-62 is respectfully solicited.

In regard to the claims amended herein and throughout the prosecution of this application, it is submitted that these claims, as originally presented, are patentably distinct over the prior art of record, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §§101, 102, 103 or 112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

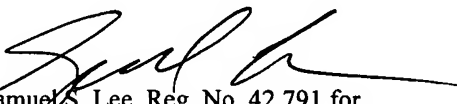
In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicants' representative at the telephone number written below.

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

By:



Samuel S. Lee, Reg. No. 42,791 for
William S. Frommer
Reg. No. 25,506
(212) 588-0800